

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I



SDMS DocID

284156

In the Matter of:  
Harco Property, Wilton, CT

Costa Stergue,  
Respondent.

Proceeding Under Section 104(e) of the  
Comprehensive Environmental Response,  
Compensation and Liability Act,  
42 U.S.C. § 9604(e).

Docket No. CERCLA

ADMINISTRATIVE ORDER FOR PROPERTY ACCESS

Jurisdiction

1. This order is issued pursuant to the authority vested in the President of the United States by Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), and the National Contingency Plan, 40 CFR § 300.400(d). This authority was delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order 12580, 52 Fed. Reg. 2923, and further delegated to the Regional Administrator, Region I, by EPA Delegation No. 14-6.

Respondent

2. Respondent Costa Stergue, an individual, currently owns property on Old Mill Road in Wilton, Connecticut (once owned by Peter P. Harco) known as the Harco property site (the "Site").

Findings of Fact

3. The Site, approximately 40 acres of undeveloped property, is located on Old Mill Road in Wilton, Connecticut.

The Site is described in a deed recorded at Book 596, Page 183 of the Registry of Deeds in Wilton, Connecticut. The Site is listed on property card number 202 and shown on assessor's aerial map number 10, lot 12, both on file in the Town of Wilton Assessor's Office.

4. In response to letters from the State of Connecticut and U.S. Senator Joseph Lieberman, EPA removal site investigators conducted a preliminary removal assessment at the Site on July 25, 1990. Soil samples taken during this visit contained lead in concentrations as high as 84,500 parts per million. These results make further investigations necessary. Lead, a hazardous substance, has been released on the Site. The lead could easily be transferred to areas beyond the Site. Access to the Site by EPA is needed to determine the need for response or the appropriate response and, if required, to perform a response action.

5. In order to address the release or threatened release of hazardous substances at the Site, EPA is planning to conduct certain response actions. These actions include performing a comprehensive site investigation to determine the extent of contamination. If conditions warrant, actions will include removal activities.

6. The Respondent owns property that includes the Site. Costa Stergue purchased the property, including the Site, by deed dated April 30, 1987 from the heirs of Peter Paul Harco, Sr.

recorded at Book 596, Page 183 of the Registry of Deeds in Wilton, Connecticut.

7. In order to perform the response actions described above, it will be necessary for employees, agents, contractors, and other representatives of EPA to enter the property owned or controlled by the Respondent referred to above immediately. The activities for which entry is required include characterization of the contamination at the Site. This will include sampling and analysis to evaluate the extent of soil and subsurface contamination. Depending on the contamination at the Site, EPA may initiate a removal action and place restrictions on site access. These actions may include erection of a fence, and Site stabilization by removal, solidification, capping, or other alternative technology. Some of these activities may include administrative controls on possible land use.

8. In accordance with CERCLA § 104(e)(3), the Site is a place where hazardous substances have been released or where there is a threat of release based on the soil samples taken by EPA at the Site on July 25, 1990. These samples contained lead, a hazardous substance listed in 40 CFR § 302.4, in concentrations as high as 84,500 parts per million.

9. EPA estimates that the duration of the required entry and access will be approximately one year.

10. Despite repeated requests from EPA representatives, the Respondent has refused to provide access for purposes of performing the response activities described above. These

requests include letters from EPA mailed November 5, 1991, and hand delivered on December 12, 1991, as well as phone messages left for the Respondent by EPA representatives on November 21, and December 16, 1991. An EPA representative spoke with the Respondent's son on December 30, 1991 and asked that the Respondent call EPA and provide the requested access. In addition, on December 30, 1991, EPA representatives discussed the Respondent's providing access with attorney Dominick Burke. Mr. Burke knows the Respondent and represents Thomas King who, on information and belief, is the Respondent's business partner for developing the Site. On December 31, 1991 EPA sent a letter to Mr. Burke requesting that the Respondent sign a written access agreement and return it to EPA by January 10, 1992. EPA representatives also left messages for Mr. Burke on January 10, 1992 asking him to call EPA. EPA has not received any access agreement from the Respondent.

#### Determinations

11. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

12. The Respondent is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

13. The substance listed in paragraph 4, lead, is a hazardous substance within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

14. The past, present, or potential migration of hazardous substances at or from the Site constitutes an actual "release"

or a threat of such a release into the "environment" within the meaning of Sections 101(8) and 101(22) of CERCLA, 42 U.S.C. §§ 9601(8) & (22).

15. The property owned by the Respondent, including the Site, referred to in paragraphs 6 and 8 is a facility, place, or property:

- (a) where hazardous substances have been disposed of;
- (b) from which hazardous substances have been, are being, or may be released;
- (c) where such release is or may be threatened; and
- (d) where entry is needed to determine the appropriate response and to effectuate a response action, within the meaning of Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3).

16. Entry to property owned or controlled by the Respondent by agents, contractors, or other representatives of the United States is for the purposes of determining the need for response, choosing a response action, or taking a response action, within the meaning of Section 104(e)(1) of CERCLA, 42 U.S.C. § 9604(e)(1).

#### ORDER

17. The Respondent shall provide the United States Environmental Protection Agency and its officers, employees, agents, contractors, and other representatives, full and unrestricted access to the Site for the purpose of conducting

response activities, including but not limited to site investigations, removal actions, and site security activities.

18. Nothing herein limits or otherwise affects any right of entry held by the United States pursuant to applicable laws, regulations, or permits.

#### Enforcement

19. Compliance with this order shall be enforceable pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). Failure to comply may permit a court to also subject the Respondent to civil penalties of up to \$25,000 for each day of each violation, as provided in Sections 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure, as provided in Section 107(c) of CERCLA, 42 U.S.C. § 9607(c)(3). Nothing herein shall preclude EPA from taking such other actions as may be necessary to protect the public health or welfare or the environment and recovering the costs thereof.

#### Opportunity to Confer

20. Within three days of receipt of this order, the Respondent may request a conference with EPA to be held no later than two days before the effective date of this order on any matter pertinent to this order, including its applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions the Respondent is ordered to take, or any other relevant and material issues or contentions

which he may have regarding this order. This conference is not an adversarial proceeding and is not part of any proceeding to enforce or challenge this order. The Respondent may appear in person or by an attorney or other representative at the conference. The Respondent may also submit written comments or statements of position on any matter pertinent to this order no later than the time of the conference, or two days before the effective date of the order if the Respondent does not request a conference. EPA will deem the Respondent to have waived his right to the conference or to submit written comments if he fails to request the conference or submit comments within the specified time period. Any request for a conference or written comments or statements should be submitted to:

Julie Taylor  
Office of Regional Counsel  
United States Environmental Protection Agency  
JFK Federal Building RCU  
Boston, Massachusetts 02203-2211  
Telephone: (617) 565-3430

Effective Date; Computation of Time

21. This order is effective on January 28, 1992, the thirteenth day following the date of issuance written below.

22. All times for performance of obligations under this order shall be calculated from the effective date. For purposes of this order, the term "day" shall mean a calendar day unless otherwise specified. When computing any period of time under this order, if the last day falls on a Saturday, Sunday, or federal legal holiday, the period shall run until the next working day.


Termination and Modification

23. This order shall terminate when EPA so orders.

24. This order may be amended or modified only by EPA in writing. Any such amendments or modifications shall be effective when signed by the Regional Administrator or her delegate.

SO ORDERED.

Date: January 15, 1992

  
Julie Belaga  
Regional Administrator





## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

January 16, 1992 By Federal Express, regular U.S. mail, and

**CERTIFIED MAIL; RETURN RECEIPT REQUESTED**

Costa Stergue  
8 Dorethy Rd  
West Redding, CT 06896

Re: Access Order for Harco Site on Old Mill Road, Wilton, CT

Dear Mr. Stergue:

As the U.S. Environmental Protection Agency ("EPA") explained in its letter from Paul Groulx to you dated December 12, 1991, EPA has determined that a removal action may be necessary to abate the public health threat posed by hazardous substances at the Harco property site on Old Mill Road (the "Site") in Wilton, Connecticut. EPA believes you are the current owner of the Site based on your 1987 purchase of the property from the estate or heirs of Peter Paul Harco, Sr. EPA has received no response from you to its December 12 letter, nor to EPA's November 5, 1991 letter and November 21, December 16, and December 30 phone messages asking you to call EPA, and have taken your lack of response as a denial of access.

Because of your lack of response, EPA has issued the enclosed Administrative Order for Property Access compelling you to provide EPA and its authorized representatives access to the Site for the purpose of conducting response activities, including but not limited to site investigations, removal action, and site security activities. This Order is issued pursuant to section 104(e)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9604(e)(5). This Order does not address any liability you or others may have for cleaning up contamination at the Site; it merely provides for access for EPA to conduct certain activities.

Pursuant to paragraph 21 of the Order, EPA will be present at the Site on January 28, 1992 at 8:30 am, weather permitting, to initiate response activities. Should you or your representative deny EPA access on that date, EPA will not forcibly enter the Site; instead, the Agency will seek judicial enforcement of this administrative order in federal district court. Alternatively, if neither you nor your representative are present at the Site on that date, EPA will construe such inaction as compliance with the Order. No further action would be required of you.

This Administrative Order for Property Access compelling you to provide access becomes effective on **January 28, 1992**. The Order provides you with an opportunity to confer with EPA concerning



- 2 -

this matter prior to the effective date. I refer you to paragraph 20 of the Order for the timing and form of a request for a conference.

I am hopeful that this matter can be resolved expeditiously and with as little inconvenience to you as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "David McIntyre". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "McIntyre".

David McIntyre, Chief  
Site Evaluation and Response Section I

Enclosure

cc: Julie Taylor, Assistant Regional Counsel - ORC  
Paul Groulx, On-Scene Coordinator - ESD  
Dominick Burke, Esq.

**FEDERAL  
EXPRESS**

QUESTIONS? CALL 800-238-5335 TOLL FREE.

 AIRBILL  
PACKAGE  
TRACKING NUMBER

3603427774

3603427774

**RECIPIENT'S COPY**

From (Your Name) Please Print  Company  Street Address  City State ZIP Required		Your Phone Number (Very Important)  Department/Floor No.  City State ZIP Required		To (Recipient's Name) Please Print <b>JULIE TAYLOR</b>  Company <b>ENVIRONMENTAL PROTECTION</b> Exact Street Address (We Cannot Deliver to P.O. Boxes or P.Q. Zip Codes) <b>1 CONGRESS ST 10TH FL.</b> <b>BOSTON MA 02114</b> City State ZIP Required		Recipient's Phone Number (Very Important)  Department/Floor No.	
YOUR INTERNAL BILLING REFERENCE INFORMATION (optional) (First 24 characters will appear on invoice.) <b>1111-10-2111</b>						IF HOLD FOR PICK-UP, Print FEDEX Address Here Street Address City State ZIP Required	
PAYMENT 1 <input checked="" type="checkbox"/> Bill Sender 2 <input type="checkbox"/> Bill Recipient's FedEx Acct. No 3 <input type="checkbox"/> Bill 3rd Party FedEx Acct. No 4 <input type="checkbox"/> Bill Credit Card 5 <input type="checkbox"/> Cash/Check						SERVICES (Check only one box) Priority Overnight (Delivery by next business morning) 11 <input type="checkbox"/> YOUR PACKAGING 16 <input type="checkbox"/> FEDEX LETTER 12 <input type="checkbox"/> FEDEX PAK 13 <input type="checkbox"/> FEDEX BOX 14 <input type="checkbox"/> FEDEX TUBE Economy Two-Day (Delivery by second business day) 30 <input checked="" type="checkbox"/> ECONOMY Standard Overnight (Delivery by next business afternoon) 51 <input type="checkbox"/> YOUR PACKAGING 56 <input type="checkbox"/> FEDEX LETTER 52 <input type="checkbox"/> FEDEX PAK 53 <input type="checkbox"/> FEDEX BOX 54 <input type="checkbox"/> FEDEX TUBE Government Overnight (Restricted to authorized users only) 46 <input type="checkbox"/> GOVT LETTER 41 <input type="checkbox"/> GOVT PACKAGE Freight Service (For Extra Large of any package over 150 lbs.) 70 <input type="checkbox"/> OVERNIGHT FREIGHT 80 <input type="checkbox"/> TWO-DAY FREIGHT	
DELIVERY AND SPECIAL HANDLING (Check services required) 1 <input type="checkbox"/> HOLD FOR PICK-UP (Fill in Box H) 2 <input checked="" type="checkbox"/> DELIVER WEEKDAY 3 <input type="checkbox"/> DELIVER SATURDAY (Extra charge) (Not available to all locations) 4 <input type="checkbox"/> DANGEROUS GOODS (Extra charge) 5 <input type="checkbox"/> 6 <input type="checkbox"/> DRY ICE Lbs. 7 <input type="checkbox"/> OTHER SPECIAL SERVICE 8 <input type="checkbox"/> 9 <input type="checkbox"/> SATURDAY PICK-UP (Extra charge) 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> HOLIDAY DELIVERY (If offered) (Extra charge)						PACKAGES WEIGHT in Pounds Only Total Total Total DIM SHIPMENT (Chargeable Weight) Received At 1 <input type="checkbox"/> Regular Stop 3 <input type="checkbox"/> Drop Box 2 <input type="checkbox"/> On Call Stop 4 <input checked="" type="checkbox"/> BSC Station	
Emp. No. Date <input type="checkbox"/> Cash Received <input type="checkbox"/> Return Shipment <input type="checkbox"/> Third Party <input type="checkbox"/> Chg. To Del <input type="checkbox"/> Chg. To Hold Street Address City State Zip Received By: Date/Time Received FedEx Employee Number Release Signature: FedEx Emp. No. Date/Time						Federal Express Use Base Charges Declared Value Charge Other 1 Other 2 Total Charges REVISION DATE 6/91 PART #137204 NCREC 9/91 FORMAT #099 <b>099</b> * 1990-91 F.E.C. PRINTED IN U.S.A.	

**EXCEPTION/SEND AGAIN**

A/B No. \_\_\_\_\_

Customer's Package/Shipment was delayed due to:

 ALL INFORMATION AND  
POD INTO COSMOS\*\*

Code	Date/Time	Emp. No.	Rte.	Change Service	Reroute To	COSMOS Update Time	Customer Contact Date/Time	Circle One *(S/R)	Comments
7	11/18/92 4:00 PM	13		<input type="checkbox"/>	<input type="checkbox"/>			S / R	DID NOT WANT
				<input type="checkbox"/>	<input type="checkbox"/>			S / R	
				<input type="checkbox"/>	<input type="checkbox"/>			S / R	
				<input type="checkbox"/>	<input type="checkbox"/>			S / R	

The code most applicable to the incomplete delivery should be used. The following is a list of the most commonly used code numbers and their explanations to help understand the reason for interrupted delivery of services as requested.

**CODE EXPLANATION**

- 3 Incorrect address
- 5 Unable to locate
- ①** Pkg. refused by recipient
- 8 Not in/Business Closed

**CODE EXPLANATION**

- 14 Return to Shipper
- 17 Future Delivery
- 42 Holiday - Closed
- 50 Improper Int'l Paperwork

\* S = Shipper; R = Recipient

**POD MUST BE OBTAINED WHEN DELIVERY IS COMPLETED.**

 Label BEFORE DELIVERY\*  
FedEx M-0025 REV 2/91 LOGOS # 117465

Peel Here